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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,692	08/26/2003	Yukio Tada	YAMA:056	3773

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EXAMINER

DONELS, JEFFREY

ART UNIT PAPER NUMBER

2837

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/648,692

**Applicant(s)**

TADA, YUKIO

**Examiner**

Jeffrey Donels

**Art Unit**

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-16 is/are allowed.
- 6) ☒ Claim(s) 17 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 17 are rejected under 35 U.S.C. 102(e) as being fully met by Allen (USP 6744891).

Regarding Claim 17, Allen discloses a method and system for ensuring royalty payments for data over a telephone network which comprises a server 20,22 which performs the steps of

    prestoring payment information indicative of payment to be made by user terminal 14 for the tone reproducing digital data (Col. 4 lines 58-63);

    a step of requesting tone reproducing digital data (Fig. 1, 28);

    a step of reading out the data designated by the request (Col. 4, lines 28-30; 46-49);

    a step of, on the basis of the above payment information, determining whether a change (e.g. "regenerate an undegraded version of the data" Col. 5 lines 22-25) process should be performed (Fig. 2, 224; see also Col. 5 line 63 – Col. 6 line 9);

a step of performing the change and outputting the changed tone reproducing digital data (Col. 5 lines 22-25; Fig. 1, 54);

a step of transmitting the tone reproducing digital data 228.

Regarding Claim 18, Allen discloses a method and system for ensuring royalty payments for data over a telephone network which comprises a server 20,22 which performs the steps of

prestoring payment information indicative of payment to be made by user terminal 14 for the tone reproducing digital data (Col. 4 lines 58-63);

a step of receiving a request for tone reproducing digital data (Fig. 1, 28);

a step of reading out the data designated by the request (Col. 4, lines 28-30; 46-49);

a step of adding readout restriction information corresponding to the payment information to the tone reproducing digital data (Col. 7 line 53 – Col. 8 line 5);

a step of outputting the changed tone reproducing digital data (Col. 5 lines 22-25; Fig. 1, 54);

a step of transmitting the tone reproducing digital data 228;

and user terminal 14 which performs (i.e. sends instructions to the server to cause it to):

a step of receiving the tone reproducing digital data transmitted by the server (Col. 4 lines 30-33);

a step of storing the tone reproducing digital data (user terminals are personal computers, Col. 3 line 51, known in the art to have storage);

a step of detecting a request made by a user for readout of tone reproducing digital data (Fig. 1, 28);

a step of reading out the data designated by the request (Col. 4, lines 28-30; 46-49);

a step of, on the basis of the above payment information, determining whether a change (e.g. "regenerate an undegraded version of the data" Col. 5 lines 22-25) process should be performed (Fig. 2, 224; see also Col. 5 line 63 – Col. 6 line 9);

a step of performing the change and outputting the changed tone reproducing digital data (Col. 5 lines 22-25; Fig. 1, 54).

### ***Allowable Subject Matter***


The following is a statement of reasons for the indication of allowable subject matter: Claims 1-16 are considered allowable over the prior art as the prior art does not teach the extraction of notes from tone reproducing digital data which meet a predetermined condition and the subsequent change of the information indicative of the note time lengths to perform a quantizing process, change of the information indicative of the tone color, deleting of the extracted notes based on note length or intensity level, or the adding of tone generating events on the basis of a predetermined algorithm.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Akahori and Fukuda are further cited to show related teachings in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Donels whose telephone number is 571-272-2061. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2800 ext 37. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jeffrey Donels  
Primary Examiner  
Art Unit 2837